

Commonwealth of Massachusetts
HAMPDEN SUPERIOR COURT
Case Summary
Civil Docket

HDCV2005-00800
Britt v DeRusse et al

File Date	08/16/2005	Status	Disposed: transferred to other court (dtrans)
Status Date	09/06/2005	Session	A - Civil A - CtRm 6
Origin	1	Case Type	D99 - Misc equitable remedy
Lead Case		Track	F

Service	11/14/2005	Answer	01/13/2006	Rule12/19/20	01/13/2006
Rule 15	01/13/2006	Discovery	06/12/2006	Rule 56	07/12/2006
Final PTC	08/11/2006	Disposition	10/10/2006	Jury Trial	Yes

PARTIES

Plaintiff
Caren Britt
Active 08/16/2005

Private Counsel 649532
Mark A. Tanner
Morse & Sacks
31 Trumbull Road
Northampton, MA 01060
Phone: 413-584-1287
Active 08/16/2005 Notify

Defendant
S Ray DeRusse
Service pending 08/16/2005

Private Counsel 567796
David P Russman
Michienzie & Sawin LLC
745 Boylston Street
5th Floor
Boston, MA 02116
Phone: 617-227-5660
Fax: 617-227-5882
Active 09/06/2005 Notify

Defendant
Veterans Group Life Insurance
Service pending 08/16/2005

Private Counsel 546321
William T Bogaert
Wilson Elser Moskowitz Edelman & Dicker
LLP
155 Federal Street
5th floor
Boston, MA 02110
Phone: 617-422-5400
Fax: 617-423-6917
Active 09/06/2005 Notify

Private Counsel 650496
Carey L Bertrand
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155 Federal Street
Boston, MA 02110
Phone: 617-422-5300
Fax: 617-423-6917
Active 09/06/2005 Notify

Commonwealth of Massachusetts
HAMPDEN SUPERIOR COURT
Case Summary
Civil Docket

HDCV2005-00800
Britt v DeRusse et al

Defendant

Prudential Insurance Company of America
Service pending 08/16/2005

Private Counsel 546321

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5th floor
Boston, MA 02110
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Private Counsel 650496

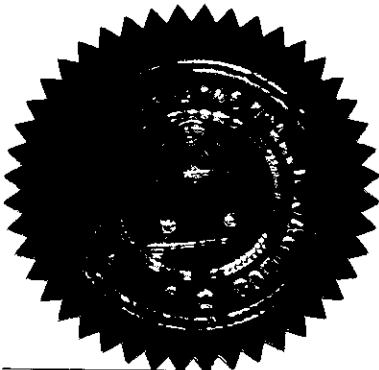
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ENTRIES

Date	Paper	Text
08/16/2005	1.0	Complaint & civil action cover sheet filed
08/16/2005		Origin 1, Type D99, Track F.
08/16/2005	2.0	Plaintiff Caren Britt's emergency ex parte motion for Temporary Restraining Order and Preliminary Injunction.
08/16/2005		MOTION (P#2) Court declines to issue a TRO. Order of Notice may issue for hearing on Preliminary Injunction. (Constance Sweeney, Justice). Notices in hand August 17, 2005
08/16/2005	3.0	Summons and order of notice issued; returnable August 25, 2005
08/24/2005		Court received faxed letter re Aug. 25 hearing which was taken off list
09/06/2005	4.0	Atty David P Russman's notice of appearance for S Ray DeRusse
09/06/2005	5.0	Case REMOVED this date to US District Court of Massachusetts

EVENTS

Date	Session	Event	Result
08/25/2005	Civil A - CtRm 6	Motion/Hearing: order of notice (3)	Event not held-joint request



A TRUE COPY
OF THE DOCKET MINUTES
IN WITNESS WHEREOF, I hereunto
set my hand, and have caused the seal
of the Superior Court for the County
of Hampden to be affixed on this

12th day of September
2005
Jean M. DeRusse
Deputy Clerk

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:
TORT - MOTOR VEHICLE TORT - CONTRACT - EQUITABLE RELIEF - OTHER

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

HAMPDEN COUNTY
SUPERIOR COURT

FILED

SEP 07 2005

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION

NO. **CS-800**

CAREN BRITT

Marie G. Magyza
CLERK-MAGISTRATE

PLAINTIFF(S)

V.

S. RAY DeRUSSE and 2917 LIPSCOMB.
VETERANS GROUP LIFE INSURANCE and
~~PRUDENTIAL INSURANCE COMPANY~~
OF AMERICA

DEFENDANT(S)

SUMMONS

To the above named defendant:

You are hereby summoned and required to serve upon
Mark A. Tanner, Esq. Bacon & Wilson, P.C. Morse & Sacks
31 Trumbull Rd. Northampton, MA 01060, plaintiff's attorney, whose address is
you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do
so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before
service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter
of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esq., at Springfield the 17th day of
August in the year of our Lord two thousand five.

Marie G. Magyza
Clerk / Magistrate

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

CE TO DEFENDANT -- You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on Aug. 23, 2005, I served a copy of the within summons, together with a copy of the original complaint, in this action, upon the within named defendant, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5)):

Interson at
2917 Lipscomb
Ft Worth, Texas

Dated: August 23, 2005

Deputy R.A. Peck

N.B. TO PROCESS SERVER:

CONSTABLE SERGIO DeLEON
PCT. #5 TARRANT CO. TX.

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS
BOX ON THE ORIGINAL AND ON THE COPY SERVED ON DEFENDANT.

Deputy R.A. Peck
(
(August 28, 2005)
()

CONSTABLE SERGIO DeLEON
PCT. #5 TARRANT CO. TX.

CLERKS OFFICE
SUPERIOR COURT
HAMPDEN COUNTY
2005 SEP -7 A 9:12

Commonwealth of Massachusetts

HAMPDEN SS.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION

No. 05-800

CAREN BRITT, Plaintiff(s)v.
S. RAY DeRUSSE and VETERANS GROUP LIFE INSURANCE and
PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant(s)SUMMONS AND ORDER OF NOTICE

To the above-named Defendants:

You are hereby summoned and required to serve upon Mark A. Tanner, Esquire
Bacon & Wilson, P.C./Morse & Sacks
plaintiff's attorney, whose address is 31 Trumbull Road, Northampton, MA 01060

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

WE ALSO NOTIFY YOU that application has been made in said action, as appears in the Emergency Ex Parte Motion for Temporary Restraining Order and
preliminary injunction and that a hearing upon such application will be held at the court house at said Springfield in the A session without jury of our said court on Thursday the 25th day of August A.D. 2005, at 2:00 o'clock p.m., at which you may appear and show cause why such application should not be granted.Witness, Barbara J. Rouse, Esquire, at Springfield the 16th day of August in the year of our Lord two thousand five.*Marie G. Mazza*
CLERK/MAGISTRATENOTES

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

9/8/05

3

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, I served a copy of the within summons and restraining orders, together with a copy of the complaint in this action, upon the within named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

Dated:

N.B. TO PROCESS SERVER:—

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

{ _____ }
{ _____ }

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:

TORT - MOTOR VEHICLE TORT - CONTRACT - EQUITABLE RELIEF - OTHER

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION
NO.CAREN BRITT, PLAINTIFF(S)

V.

SUMMONS

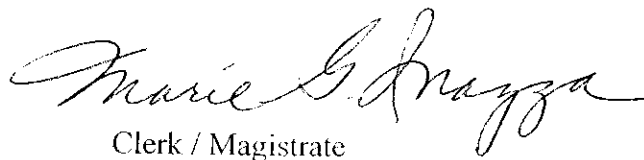
S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE and
~~PRUDENTIAL INSURANCE COMPANY OF~~, DEFENDANT(S)
AMERICA

To the above named defendant:

You are hereby summoned and required to serve upon
Mark A. Tanner, Esq. Bacon & Wilson, P.C. Morse & Sacks, plaintiff's attorney, whose address is
31 Trumbull Road, Northampton, MA 01060, an answer to the complaint which is herewith served upon
 you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do
 so, judgment by default will be taken against you for the relief demanded in the complaint. You are also
 required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before
 service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which
 you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter
 of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esq., at Springfield the 17th day of
August in the year of our Lord two thousand five.



Clerk / Magistrate

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 2005, I served a copy of the within summons, together with a copy of the original complaint, in this action, upon the within named defendant, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5):

Dated: _____, 2005

N.B. TO PROCESS SERVER:

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON THE COPY SERVED ON DEFENDANT.

(_____)
(_____, 2005)
(_____)



OFFICE OF SERVICEMEMBERS' GROUP LIFE INSURANCE

290 West Mount Pleasant Avenue
Livingston, New Jersey 07039

When calling from the United States, Canada, Puerto Rico,
St. Thomas or St. Croix, please dial 1-800-419-1473.
From any other area, please dial (973) 548-5699.
FAX (800) 236-6142 Claim FAX (877) 832-4943

August 18, 2005

Bacon & Wilson, P.C
Morse & Sacks
Attorneys At Law
31 Trumbull Rd
Northampton, MA 01060

In Re: Ronald H Stewart
Claim No.: **10618686**

Dear Sirs,

This is to confirm our receipt of the *Complaint and Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction* and have accepted service. We have referred the case to our legal department for handling. You should be contacted in the near future by outside counsel.

If you have any questions, please do not hesitate to contact our office toll free at (800) 419-1473. I can be reached on extension 3969 between 8:00am and 4:00 pm Eastern time, Monday through Friday. If you prefer, you can send our office a fax at (877) 832-4943.

Sincerely,

Rose Silva
Sr. Claim Examiner

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss

SUPERIOR COURT
No. 05-800

CAREN BRITT,
Plaintiff
v.
S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE
And
PRUDENTIAL INSURANCE COMPANY
OF AMERICA,
Defendants

HAMPDEN COUNTY
SUPERIOR COURT
FILED

SEP 06 2005

Marie Maggione
CLERK-MAGISTRATE

NOTICE OF APPEARANCE

To the Clerk:

Please enter my appearance as counsel for the defendant S. Ray DeRusse.

Respectfully submitted,

S. RAY DeRUSSE,
By his attorney,

David P. Russman
David P. Russman (BBO 567796)
The Russman Law Firm, P.C.
194 E Street, Suite 1
Boston, MA 02127
617.464.2332

Dated: August 31, 2005

A true copy:

Attest:

Lena M. Durham
Deputy Assistant Clerk

24

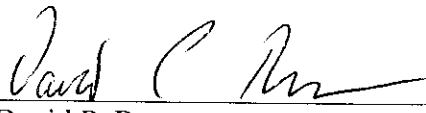
Certificate of Service

I, David Russman, hereby certify that I served a true and accurate copy of this document upon the following on August 31, 2005 via first-class mail, postage prepaid.

Mark A. Tanner, Esq.
Bacon & Wilson / Morse & Sacks
31 Trumbull Road
Northampton, MA 01060

Carey Bertrand, Esq.
Wilson Elser
155 Federal Street
Boston, MA 02110

Dated: August 31, 2005



David P. Russman

HAMPDEN ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION

No. 05-800

CAREN BRITT

Plaintiff(s)

v.

S. RAY DeRUSSE and VETERANS GROUP LIFE INSURANCE and
PRUDENTIAL INSURANCE COMPANY OF AMERICA, Defendant(s)SUMMONS AND ORDER OF NOTICE

To the above-named Defendants:

You are hereby summoned and required to serve upon Mark A. Tanner, Esquire
Bacon & Wilson, P.C./Morse & Sacks
plaintiff's attorney, whose address is 31 Trumbull Road, Northampton, MA 01060
an answer to the complaint which is herewith served upon you, within 20 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be
taken against you for the relief demanded in the complaint. You are also required to file your answer
to the complaint in the office of the Clerk of this court at Springfield either before service upon
plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim
which you may have against the plaintiff which arises out of the transaction or occurrence that is the
subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any
other action.

WE ALSO NOTIFY YOU that application has been made in said action, as appears in the
Emergency Ex Parte Motion for Temporary Restraining Order and
preliminary injunction and that a hearing upon such application will be held at the
court house at said Springfield in the A session without jury of our said court on Thursday
the 25th day of August A.D. 2005, at 2:00 o'clock p.m., at which you
may appear and show cause why such application should not be granted.

Witness, Barbara J. Rouse, Esquire, at Springfield the 16th day
of August in the year of our Lord two thousand five.

Marie D. Khayza
CLERK/MAGISTRATE

NOTES

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

**SUPERIOR COURT DEPT.
OF THE TRIAL COURT**

HAMPDEN COUNTY OF THE TRIAL
SUPERIOR COURT Civil Action No.

FILED

65- 800

CAREN BRITT,
Plaintiff

AUG 16 2005

V.

Marie E. Mazza
CLERK-MAGISTRATE

**S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE)
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants**

Emergency *Ex Parte* Motion for Temporary Restraining Order and Preliminary Injunction

Now comes Caren Britt, Plaintiff in the above-captioned matter, and hereby moves this Honorable Court to issue a preliminary injunction, pursuant to Mass.R.Civ.P. 65, prohibiting and enjoining the Defendants, from paying the proceeds of a certain life insurance policy named in the Verified Complaint during the pendency of the present action.

In further support of this motion, please see the Verified Complaint of the Plaintiff, the Affidavit of Caren Britt, the Affidavit of Mark A. Tanner, Esq., as well as the Memorandum of Law in support hereof, all of which documents are attached hereto and made a part hereof. A proposed Order is also submitted herewith.

ACON & WILSON, P.C.
ATTORNEYS AT LAW
33 STATE STREET
SPRINGFIELD, MA 01103
TELEPHONE (413) 781-0560
FAX (413) 739-7740

9 CHAPEL STREET
WESTFIELD, MA 01085
TELEPHONE (413) 562-9607
FAX (413) 562-7589

31 TRUMBULL ROAD
NORTHAMPTON, MA 01060
TELEPHONE (413) 584-1287
FAX (413) 584-0453

Court also declines
 to issue a T.R.O.
 Order of Notice may
 issue for hearing
 on Petition for Judgment
 A. J. Higgins
 12/14/95

WHEREFORE, the Plaintiff respectfully requests that this Court issue a temporary restraining order and preliminary injunction, as set forth on the attached proposed Order.

Respectfully Submitted for
The Plaintiff

8-15-05
Date

Caren Britt
Mark A. Tanner
Bacon & Wilson, P.C./Morse & Sacks
31 Trumbull Road
Northampton, MA 01060
Telephone: (413) 584-1287
BBO No. 649532

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31 TRUMBULL ROAD
NORTHAMPTON, MA 01060
TELEPHONE (413) 584-1287
FAX (413) 584-0453

A true copy:

Attest:

Lena M. Denham
Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
Civil Action No.

CAREN BRITT,
Plaintiff

v.

S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE)
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants

Memorandum of Law in Support
of Emergency *Ex Parte* Motion for
Temporary Restraining Order and
Preliminary Injunction

This is an action on a declaratory judgment to determine the rights of the named parties to a certain life insurance policy.

STATEMENT OF FACTS

The Plaintiff relies on the statement of facts set forth in the verified complaint which is incorporated herein by reference.

ARGUMENT

In order to succeed in a motion for preliminary injunction, a party must establish:

1. A likelihood of success on the merits;
2. That he will suffer irreparable harm in the absence of injunctive relief; and
3. That the balance of the irreparable harm weighs in his favor.

See, Hull Municipal Lighting Plant v. Massachusetts Municipal Wholesale Electric Co.,

399 Mass. 640, 648 (1987); Brookline v. Goldstein, 388 Mass. 443, 447 (1983); Packaging

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Industries Group, Inc. v. Cheney, 380 Mass. 609, 617 (1980).

In the Packaging Industries Group case, the Supreme Judicial Court declared that the trial Judge must initially look at the combination of the moving party's claim for injury and his chances for success on the merits. If the Court is convinced that the moving party would be subjected to irreparable harm without an injunction, and that there is a likelihood of success for the moving party, then the Court balances the moving party's risk of irreparable harm against any similar risk of irreparable harm which granting the injunction might create for the opposing party.

As will be fully demonstrated below, the Plaintiff's request for the preliminary injunction satisfies each of the requisite criteria. Also, when the balancing is done, the Court should find that the Plaintiff is entitled to the requested injunction because little, if any, irreparable harm would be incurred by the Defendants as a result of the requested injunction.

I. Plaintiffs Have a Substantial Likelihood of Success on the Merits.

The Plaintiffs can show by clear, testimonial evidence that Mr. Stewart intended, and believed Mrs. Britt was the beneficiary of his VGLI insurance policy and other service-related benefits. This is demonstrated not only by the statements he made during his lifetime, but also by the fact that he filled out certain forms changing his beneficiaries. Further, given the volatile end to the relationship between Mr. Stewart and Mr. DeRusse, it is unlikely that Mr. Stewart intended him to benefit in any manner from his death.

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II. Without a preliminary injunction, the Plaintiff will suffer irreparable harm.

Without the injunction, irreparable harm will result to the Plaintiff, including, but not limited to:

- A. The payment of the proceeds of Mr. Stewart's life insurance policy to an individual Mr. Stewart did not intend to benefit at the time of his death.
- B. The possibility that once such funds are paid, the ability of the Plaintiff to recover such funds will dissipate, as the cash proceeds are easily spent and/or converted.

III. A balance of harms clearly weighs in the Plaintiff's favor.

Where, as in the case at bar, the Plaintiff has demonstrated that the failure to issue the injunction would result in substantial risk of irreparable harm, and he has demonstrated a likelihood of success on the merits, the Court must balance the risk of irreparable harm to the Plaintiff against any similar risk which granting the injunction would create for the opposing party. See, Packaging Industries Group, 380 Mass. at 617.

In this instant case, no irreparable harm will occur to the Defendants should the Plaintiff's request for injunctive relief be allowed; since the proceeds of the life insurance policy at issue will not be paid to any individual or entity, rather they will be held until such time as this court is able to make a full and final determination of this matter.

CONCLUSION

For the foregoing reasons, the preliminary injunction should issue, preventing the Defendants, during the pendency of this action, from dispersing the proceeds of the life insurance at issue to any individual or entity.

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ORTHAMPTON, MA 01060
TELEPHONE (413) 584-1287
FAX (413) 584-0453

Respectfully Submitted the Plaintiff
By Her Attorney,

8-15-05
Date



Mark A. Tanner
Bacon & Wilson, P.C./Morse & Sacks
MORSE & SACKS
31 Trumbull Road
Northampton, MA 01060
Telephone: (413) 584-1287
BBO No. 649532

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COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
Civil Action No.

CAREN BRITT,
Plaintiff

v.

S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE)
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants

Affidavit of Mark A. Tanner in
Support of Emergency *Ex Parte*
Temporary Restraining Order
Preliminary Injunction

Now comes Mark A. Tanner and, making this affidavit under the penalties of perjury, states that the allegations made below are true of his own knowledge, information and belief and, so far as the facts are stated to be upon information and belief, he believes such information to be true.

1. My name is Mark A. Tanner. I am an attorney at Bacon & Wilson, P.C./Morse & Sacks in Northampton, Massachusetts.
2. I am licensed to practice law in the State of New York and the Commonwealth of Massachusetts.
3. I have had numerous telephone conversations with representatives of Veterans Group Life Insurance (VGLI).
4. I have asked these representatives whether competing claims have been filed for the insurance death benefits of Mr. Stewart.

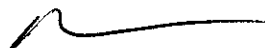
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5. I have been informed by representatives of VGLI that they cannot provide me with information regarding the name of the beneficiary of Mr. Stewart's benefits, or whether claims have been made for such benefits.
6. I have been further informed by such representatives that they would not release such information without a court order, and that they would not withhold payment of such death benefits absent a court order.
7. The named defendants in this action are not physically located in the Commonwealth and will take some time to serve.

Signed this 15th Day of August 2005.



Mark A. Tanner, Esq.

ACON & WILSON, P.C.
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TELEPHONE (413) 584-1287
FAX (413) 584-0453

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
Civil Action No.

CAREN BRITT,
Plaintiff

v.

S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE)
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants

Affidavit of Caren Britt in
Support of Emergency *Ex Parte*
Temporary Restraining Order and
Preliminary Injunction

Now comes Caren Britt and, making this affidavit under the penalties of perjury, states that the allegations made below are true of her own knowledge, information and belief and, so far as the facts are stated to be upon information and belief, she believes such information to be true.

1. My name is Caren Britt.
2. I reside at 36 Clayton Drive, West Springfield, Massachusetts.
3. My brother Ronald H. Stewart died on or about May 18, 2005 in Springfield, Hampden County, Massachusetts.
4. Prior to his retirement, Ronald H. Stewart served in the United States Navy.
5. During such service in the United States Navy, Mr. Stewart obtained a Veterans Group Life Insurance Policy Numbered 026-40-4232.

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6. Prior to his death, Mr. Stewart resided with my family and me at 36 Clayton Drive, West Springfield, Massachusetts.
7. Based upon information and belief, S. Ray DeRusse is the former partner of Ronald H. Stewart.
8. On or about the year of 1996 S. Ray DeRusse and my brother ceased their relationship.
9. Based upon information and belief, the relationship between S. Ray DeRusse and my brother was abusive and that Mr. Stewart suffered bodily injury at the hands of Mr. DeRusse.
10. On or about October 28, 2000 my brother named me as the 100% beneficiary of his service member's retirement benefits.
11. Since 2004, the Defense Finance and Accounting Agency mailed me a monthly check representing my brother's retirement.
12. During the time he lived with my family and me, my brother, on numerous occasions, informed me that I was the sole beneficiary of his life insurance policy and that he intended me to have the proceeds of the policy.
13. Based upon information and belief, during his lifetime my brother verbally informed his stepson Glen Wilson that I was the sole beneficiary of his VGLI life insurance policy. I have had conversations with Mr. Wilson in this regard.
14. During his lifetime Mr. Stewart verbally informed other members of his family that I was the sole beneficiary of his VGLI life insurance policy.


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15. On or about June 2, 2005, I telephoned the offices of VGLI with regard to my brother's life insurance benefits and was informed that I was the designated beneficiary.
16. Based upon this telephone call, I submitted an application for payment of benefits under the VGLI Life Insurance Policy.
17. Approximately five weeks after my submission for payment of benefits, I telephoned VGLI and was informed that I was not the named beneficiary.
18. I believe S. Ray DeRusse is the named beneficiary.
19. Despite numerous requests VGLI will not release the name of the beneficiary, and instructed me to seek injunctive relief to resolve this matter or they would release payment to the "named" beneficiary.

Signed this 15th day of August 2005.


Caren Britt

JACON & WILSON, P.C.

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COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
Civil Action No.

CAREN BRITT,
Plaintiff

v.

S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE)
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants

Affidavit of Robert Britt in
Support of Emergency *Ex Parte*
Temporary Restraining Order and
Preliminary Injunction

1. My name is Robert Britt.
2. I reside at 36 Clayton Drive, West Springfield, Massachusetts.
3. My brother in Law Ronald H. Stewart died on or about May 18, 2005 in
Springfield, Hampden County, Massachusetts.
4. Prior to his death Ron lived with us for some period of time.
5. During this time Ron never spoke of Mr. DeRusse, although we knew they had
previously been in a relationship.

Signed this 15th day of August 2005.


Robert Britt

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**CIVIL ACTION
COVER SHEET**

Case 3:05-cv-30197-MAP

Document 8-2
US 800

Filed 09/19/2005

State of Massachusetts
Superior Court Department
County:



PLAINTIFF(S)

Caren Britt

DEFENDANT(S)

S. Ray DeBusse; Prudential Insurance Co. of
America, Inc.;
Veterans Group Life Insurance

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

MARIC A. Tanner
Bacon Wilson Morse & Jack, 31 Trumbull Rd
Northampton, MA 01060
Board of Bar Overseers number: 249532 (413) 584-1287

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- | | |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

CODE NO.

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

D99

Declaratory/
Judgment/Life Insurance (F)

TRACK

IS THIS A JURY CASE?

(X) Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

- | | |
|----------------------------------------------------------------------------------------------|---------------------|
| A. Documented medical expenses to date: | |
| 1. Total hospital expenses | \$ N/A |
| 2. Total Doctor expenses | \$ |
| 3. Total chiropractic expenses | \$ |
| 4. Total physical therapy expenses | \$ |
| 5. Total other expenses (describe) | \$ |
| | Subtotal \$ |
| B. Documented lost wages and compensation to date | \$ |
| C. Documented property damages to date | \$ |
| D. Reasonably anticipated future medical and hospital expenses | \$ |
| E. Reasonably anticipated lost wages | \$ |
| F. Other documented items of damages (describe) | \$ |
| G. Brief description of plaintiff's injury, including nature and extent of injury (describe) | \$ N/A |
| | \$ N/A |
| | TOTAL \$ N/A |

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

N/A / Claim for Declaratory Judgment as to Life Insurance
Proceeds

TOTAL \$ N/A

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

NONE

A true copy:

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

[Signature]
Deputy Assistant Clerk

DATE: 8-16-04

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
Civil Action No.

CAREN BRITT,
Plaintiff

v.

S. RAY DeRUSSE and
VETERANS GROUP LIFE INSURANCE
and
PRUDENTIAL INSURANCE
COMPANY OF AMERICA,
Defendants

55-800

VERIFIED COMPLAINT

HAMPDEN COUNTY
SUPERIOR COURT
FILED

AUG 16 2005

Danilo S. Maggion
CLERK-MAGISTRATE

INTRODUCTION

The Plaintiff brings this civil action, to determine the rightful owner of the proceeds of a life insurance policy on the life of Mr. Ronald H. Stewart (deceased) issued by Veterans Group Life Insurance.

PARTIES

1. Caren Britt is a natural person with a residential address of 36 Clayton Drive, West Springfield, Massachusetts.
2. S. Ray DeRusse is a natural person with a residential address of 2917 Lipscomb Street, Fort Worth, Texas 76110-3557.
3. Veterans Group Life Insurance/Servicemen's and Veterans Group Life Insurance (hereinafter "VGLI") is a life insurance company with an address of 213 Washington Street, Newark, New Jersey.

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No. of Pgs. 1
Fee Paid - \$ 240.00 Cash/Check
Surcharge Paid - \$ 15.00 Cash/Check
Security Fee - Paid - \$ 20.00 Cash/Check
Received by *gm*

4. The Prudential Insurance Company of America is a New Jersey Corporation authorized to sell life insurance and annuities in all states, with a business address of 751 Broad Street, Newark, New Jersey.

FACTS

5. Ronald H. Stewart died on or about May 18, 2005 in Springfield, Hampden County, Massachusetts. See Attachment A, attached hereto and incorporated herein.
6. Prior to his retirement Ronald H. Stewart served in the United States Navy.
7. During his service in the United States Navy, Mr. Stewart obtained a Veterans Group Life Insurance Policy Numbered 026-40-4232.
8. Prior to his death Mr. Stewart resided with his sister, Caren Britt and her family, at 36 Clayton Drive, West Springfield, Massachusetts.
9. Caren Britt, is the sister of Ronald H. Stewart.
10. Based upon information and belief, S. Ray DeRusse is the former partner of Ronald H. Stewart.
11. On or about the year 1996 S. Ray DeRusse and Ronald H. Stewart ceased their relationship.
12. Based upon information and belief, the relationship between S. Ray DeRusse and Ronald H. Stewart was abusive, and that Mr. Stewart suffered bodily injury at the hands of Mr. DeRusse.
13. On or about October 28, 2000 Ronald H. Stewart named Caren Britt as the 100% beneficiary of his service member's retirement benefits. See Attachment B, attached hereto and incorporated herein.

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14. During his lifetime Mr. Stewart verbally informed Ms. Britt that she was the sole beneficiary of his life insurance policy.
15. During his lifetime Mr. Stewart verbally informed his stepson Glen Wilson that Ms. Britt was the sole beneficiary of his VGLI life insurance policy.
16. During his lifetime Mr. Stewart verbally informed other members of his family that Ms. Britt was the sole beneficiary of his VGLI life insurance policy.
17. On or about June 2, 2005, Ms. Britt telephoned the offices of VGLI with regard to Mr. Stewart's life insurance benefits and was informed that she was the designated beneficiary.
18. Based upon the June 2, 2005 telephone call, Ms. Britt submitted an application for payment of benefits under the VGLI life insurance policy.
19. Approximately five weeks after her submission for payment of benefits, Ms. Britt telephoned VGLI and was informed that she was not the named beneficiary.
20. Based upon information and belief S. Ray DeRusse is the named beneficiary.
21. Despite numerous requests VGLI will not release the name of the beneficiary, and instructed Ms. Britt to seek injunctive relief to resolve this matter.

First Claim for Relief

Declaratory Judgment

1. The Plaintiffs hereby re-allege and incorporate by reference Paragraphs 1.

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through 21. above, as though fully set forth herein.

2. There exists between the parties to this action an actual justifiable controversy regarding the rightful beneficiary of the aforementioned life insurance policy.

WHEREFORE, the Plaintiffs pray that this Honorable Court:

1. Adjudicate the adverse claims to the VGLI Insurance Policy Numbered 026-40-4232;
2. Award the Plaintiff, Caren Britt, the costs incurred in bringing this action; and
3. Grant such other and further relief as this Honorable Court may determine is just and proper.

WILSON & WILSON, P.C.
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VERIFICATION

Caren Britt, being duly sworn, states that that she has read the above Complaint and the attached documents, and that the facts stated therein are to her knowledge true.

Caren Britt
CAREN BRITT

Respectfully Submitted for the Plaintiff,

8-15-05
Date

Mark A. Tanner, Esq.
Mark A. Tanner, Esq.
Bacon & Wilson, P.C./Morse & Sacks
31 Trumbull Road
Northampton, MA 01060
Telephone: (413) 584-1287
BBO No. 649532

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A true copy:

Attest:

Penam Danhan
Deputy Assistant Clerk

(INSTRUCTIONS ON REVERSE SIDE)



STANDARD CERTIFICATE OF DEATH
REGISTRY OF VITAL RECORDS AND STATISTICS

FOR USE BY
PHYSICIANS AND
MEDICAL EXAMINERS

STATE USE ONLY

4c Hosp

5 Type

6 Hosp Race

7 Age

8 Resid

9 Out-State

10 Disp

11 Autop

12 Manner

13 Work Inj

14 Place

15 Cert

16 Pron

DECEDENT

INFORMANT

DISPOSITION

CERTIFIER

DECEDENT - NAME FIRST MIDDLE LAST
Ronald Hamilton Stewart

SEX M DATE OF DEATH (Mo., Day, Yr.) May 18, 2005

PLACE OF DEATH (City/Town) COUNTY OF DEATH HOSPITAL OR OTHER INSTITUTION - Name (If not in either, give street and number)
Springfield Hampden Baystate Medical Center

4a PLACE OF DEATH (Check only one):
HOSPITAL: ☐ Inpatient ☒ Outpatient ☐ DOA
OTHER: ☐ Nursing Home ☐ Residence ☐ Other (Specify)

6 SOCIAL SECURITY NUMBER 026-40-4232

7 IF US WAR VETERAN SPECIFY WAR: Vietnam

8a WAS DECEDENT OF HISPANIC ORIGIN? (If yes, Specify Puerto Rican, Dominican, Cuban, etc.)
☒ NO ☐ YES

8b RACE (e.g. White, Black, American Indian, etc.) (Specify) White

9 DECEDENT'S EDUCATION (Highest Grade Completed)
Elementary Sec (0-12) 12 College (1-4, 5+)

10a AGE - Last Birthday (Yr.) 36

10b UNDER 1 YEAR MOS. DAYS UNDER 1 DAY HOURS MINS

10c DATE OF BIRTH (Mo., Day, Yr.) Feb 10, 1949

10d BIRTHPLACE (City and State or Foreign Country) Birkenhead, England

11a MARRIED, NEVER MARRIED, WIDOWED OR DIVORCED Divorced

11b LAST SPOUSE (If wife, give maiden name) Nisha Unknown

11c USUAL OCCUPATION (Prior - If Retired) Documents Manager

11d KIND OF BUSINESS OR INDUSTRY Pharmaceutical

12a RESIDENCE - NO. & ST., CITY/TOWN, COUNTY, STATE/COUNTRY
36 Clayton Drive West Springfield Hampden Massachusetts

12b ZIP CODE 01089

13a FATHER - FULL NAME James Stewart

13b STATE OF BIRTH (If not in U.S., name country) England

13c MOTHER - NAME (GIVEN) (MAIDEN) Marilyn Stewart

13d STATE OF BIRTH (If not in U.S., name country) England

14a INFORMANT'S NAME Caren Brito

14b MAILING ADDRESS - NO. & ST., CITY/TOWN, STATE, ZIP CODE 36 Clayton Dr West Springfield MA 01089

14c RELATIONSHIP Sister

15a METHOD OF IMMEDIATE DISPOSITION
☐ BURIAL ☒ CREMATION ☐ ENTOMBMENT ☐ REMOVAL FROM STATE ☐ DONATION ☐ OTH. SPEC.

15b FUNERAL SERVICE LICENSEE OR OTHER DESIGNEE Joseph J. Nowak

15c LICENSE # 5957

16a PLACE OF DISPOSITION (Name of Cemetery, Crematory or other) Springfield Crematory

16b LOCATION (City/Town, State) Springfield Massachusetts

16c DATE OF DISPOSITION (Mo., Day, Yr.) May 23, 2005

16d NAME AND ADDRESS OF FACILITY OR OTHER DESIGNEE Nowak Funeral and Cremation Services 15 Ludlow Ave Spfld MA 01151

17 PART I - Enter the diseases, injuries, or complications that caused the death. Do not use only the mode of dying, such as cardiac or respiratory arrest, shock or heart failure. List only one cause on each line (a through d) PRINT OR TYPE LEGIBLY.

17a IMMEDIATE CAUSE (Final disease or condition resulting in death) a. Cardiopulmonary Arrest

17b b. Coronary Artery Disease

17c c.

17d d.

18 PART II - Other significant conditions contributing to death but not resulting in underlying cause given in Part I.

19a MED. EXAM. NOTIFIED? (Yes or No) YES

19b MANNER OF DEATH
☒ NATURAL ☐ HOMICIDE ☐ COULD NOT BE DETERMINED
☐ ACCIDENT ☐ SUICIDE ☐ PENDING INVESTIGATION

19c DATE OF INJURY (Mo., Day, Yr.)

19d TIME OF INJURY

19e INJURY AT WORK (Yes or No)

19f DESCRIBE HOW INJURY OCCURRED

19g PLACE OF INJURY (At home, farm, street, factory, office bldg., etc.) Specify

19h LOCATION (No. & St., City/Town, State)

20a 36a To the best of my knowledge, death occurred at the time, date, and place and due to the cause(s) stated.
(Signature and Title) Jay Ishida MD

20b DATE SIGNED (Mo., Day, Yr.) May 18, 2005

20c HOUR OF DEATH 10:11

20d NAME OF ATTENDING PHYSICIAN IF NOT CERTIFIER Susan Torrey MD

20e NAME AND ADDRESS OF CERTIFYING PHYSICIAN OR MEDICAL EXAMINER (Type or Print) Jay Ishida MD 759 Chestnut Street Springfield, MA 01099

20f 37a On the basis of examination and/or investigation in my opinion death occurred at the time, date, and place and due to the cause(s) stated.
(Signature and Title) Jay Ishida MD

20g DATE SIGNED (Mo., Day, Yr.)

20h HOUR OF DEATH

20i 37b PRONOUNCED DEAD (Mo., Day, Yr.)

20j 37c PRONOUNCED DEAD (Hr)

20k 37d PRONOUNCED DEAD (Mo., Day, Yr.)

20l 37e PRONOUNCED DEAD (Hr)

20m 37f PRONOUNCED DEAD (Mo., Day, Yr.)

20n 37g PRONOUNCED DEAD (Hr)

20o 37h PRONOUNCED DEAD (Mo., Day, Yr.)

20p 37i PRONOUNCED DEAD (Hr)

20q 37j PRONOUNCED DEAD (Mo., Day, Yr.)

20r 37k PRONOUNCED DEAD (Hr)

20s 37l PRONOUNCED DEAD (Mo., Day, Yr.)

20t 37m PRONOUNCED DEAD (Hr)

20u 37n PRONOUNCED DEAD (Mo., Day, Yr.)

20v 37o PRONOUNCED DEAD (Hr)

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20z 37s PRONOUNCED DEAD (Hr)

20aa 37t PRONOUNCED DEAD (Mo., Day, Yr.)

20ab 37u PRONOUNCED DEAD (Hr)

20ac 37v PRONOUNCED DEAD (Mo., Day, Yr.)

20ad 37w PRONOUNCED DEAD (Hr)

20ae 37x PRONOUNCED DEAD (Mo., Day, Yr.)

20af 37y PRONOUNCED DEAD (Hr)

20ag 37z PRONOUNCED DEAD (Mo., Day, Yr.)

20ah 37aa PRONOUNCED DEAD (Hr)

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20an 37ag PRONOUNCED DEAD (Hr)

20ao 37ah PRONOUNCED DEAD (Mo., Day, Yr.)

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20bb 37au PRONOUNCED DEAD (Hr)

20bc 37av PRONOUNCED DEAD (Mo., Day, Yr.)

20bd 37aw PRONOUNCED DEAD (Hr)

20be 37ax PRONOUNCED DEAD (Mo., Day, Yr.)

20bf 37ay PRONOUNCED DEAD (Hr)

20bg 37az PRONOUNCED DEAD (Mo., Day, Yr.)

20bh 37ba PRONOUNCED DEAD (Hr)

20bi 37bb PRONOUNCED DEAD (Mo., Day, Yr.)

20bj 37bc PRONOUNCED DEAD (Hr)

20bk 37bd PRONOUNCED DEAD (Mo., Day, Yr.)

20bl 37be PRONOUNCED DEAD (Hr)

20bm 37bf PRONOUNCED DEAD (Mo., Day, Yr.)

20bn 37bg PRONOUNCED DEAD (Hr)

20bo 37bh PRONOUNCED DEAD (Mo., Day, Yr.)

20bp 37bi PRONOUNCED DEAD (Hr)

20bq 37bj PRONOUNCED DEAD (Mo., Day, Yr.)

20br 37bk PRONOUNCED DEAD (Hr)

20bs 37bl PRONOUNCED DEAD (Mo., Day, Yr.)

20bt 37bm PRONOUNCED DEAD (Hr)

20bu 37bn PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37bo PRONOUNCED DEAD (Hr)

20bv 37bp PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37bq PRONOUNCED DEAD (Hr)

20bv 37br PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37bs PRONOUNCED DEAD (Hr)

20bv 37bt PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37bu PRONOUNCED DEAD (Hr)

20bv 37bv PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37bw PRONOUNCED DEAD (Hr)

20bv 37bx PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37by PRONOUNCED DEAD (Hr)

20bv 37bz PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37ca PRONOUNCED DEAD (Hr)

20bv 37cb PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37cc PRONOUNCED DEAD (Hr)

20bv 37cd PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37ce PRONOUNCED DEAD (Hr)

20bv 37cf PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37cg PRONOUNCED DEAD (Hr)

20bv 37ch PRONOUNCED DEAD (Mo., Day, Yr.)

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20bv 37cm PRONOUNCED DEAD (Hr)

20bv 37cn PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37co PRONOUNCED DEAD (Hr)

20bv 37cp PRONOUNCED DEAD (Mo., Day, Yr.)

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20bv 37cz PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37da PRONOUNCED DEAD (Hr)

20bv 37db PRONOUNCED DEAD (Mo., Day, Yr.)

20bv 37dc PRONOUNCED DEAD (Hr)

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20bv 37de PRONOUNCED DEAD (Hr)

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20bv 37dg PRONOUNCED DEAD (Hr)

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20bv 37di PRONOUNCED DEAD (Hr)

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20bv 37dk PRONOUNCED DEAD (Hr)

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20bv 37dm PRONOUNCED DEAD (Hr)

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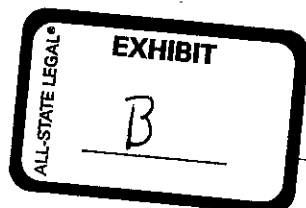
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RETIRED MEMBER'S NAME RONALD HAMILTON STEWART		RETIRED MEMBER'S SSN 026 40 4232	
TYPE OF ACTION: (CHECK ONE)		<input type="checkbox"/> LEGAL ORDER OF PRECEDENCE <input type="checkbox"/> DESIGNATION OF BENEFICIARIES	
SHARE	FULL NAME CAREN BRITT	SSN 010 504817	RELATIONSHIP SISTER
100 %	ADDRESS 36 CLAYTON DRIVE WSPAD MASS 010		
SHARE	FULL NAME	SSN	RELATIONSHIP
%	ADDRESS		
SHARE	FULL NAME	SSN	RELATIONSHIP
%	ADDRESS		
RETIRED MEMBER SIGNATURE <i>Ronald H Stewart</i>			DATE OF SIGNATURE 10-26-00
WITNESS SIGNATURE (other than designated beneficiary/Order of Precedence Person) <i>Brian Huff</i>			
WITNESS STREET ADDRESS 20721 Crystalhill Cir		WITNESS CITY, STATE, ZIP CODE German town MS, 38744	

196195